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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,441	11/12/2003	Richard Morgan	063571-9002-01	8003
23510	7590	03/16/2006	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP ONE SOUTH PINCKNEY STREET P O BOX 1806 MADISON, WI 53701			LOCKETT, KIMBERLY R	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/706,441

Applicant(s)

MORGAN ET AL.

Examiner

Kim R. Lockett

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3, 5-9, 14, 16, 18, 20, 22-26, 31, 32, 35-40, 43, 45 and 46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 4, 10-13, 15, 17, 19, 27-30, 33, 34, 41, 42, and 44 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
**KIMBERLY LOCKETT**  
**PRIMARY EXAMINER**

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 5-9, 16, 18, 22-26, 32, 35-40, 43,45, 46 are rejected under 35 U.S.C. 102(a) as being anticipated by Yoshida.

Yoshida discloses the use of a percussion instrument lift assembly comprising a support rod (18); two end lifts connected by the support rod (see figure 1), each end lift comprising a frame (7), a lifting frame(9) coupled to the frame; a lift (21) extending between the frame and the lifting frame (19), the lift actuator to move the lifting frame in a vertical direction with respect to the frame; and a first and second platform (14) (see paragraph 33) coupled to the lifting frame and adapted to be selectively moved in a horizontal direction relative to the lifting frame to accommodate a percussion instrument. Yoshida further discloses the use of vertical tube supporting members(3) that extend between the top and bottom of the frame and an aperture through which the vertical tubes extend (see figure 5) . The bottom of the frame as disclosed by Yoshida also includes a support rod receiving member and castor wheels (16) coupled to the end of the vertical tubes (see figure 5) . The lifting frame as disclosed by Yoshida comprises a mounting aperture to couple the platforms via a fastener (48 ).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3, 14, 20, and 31, are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida in view of Ter Heide.

Yoshida does not disclose the use of a handle.

Ter Heide discloses the use of a percussion instrument lift with a handle (10) attached to the frame.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device as disclosed by Yoshida to include the handles as disclosed by Ter Heide in order to control height adjustments.

4. Claims 2, 4, 10-13, 15, 17, 19, 21, 27-30, 33, 34, 41, 42, and 44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Papers related to this application may be submitted to Group 2800 by facsimile transmission. Papers should be faxed to Group 2800 via the PTO 2800 Fax Center at 703-872-9306.

For assistance in **Patent procedure, fees or general Patent questions** calls should be directed to the **Patents Assistance Center (PAC)** whose telephone number is **800-786-9199**. Assistance is also available on the Internet at [www.uspto.gov](http://www.uspto.gov).

Any inquiry concerning **this communication or earlier communications from the examiner** should be directed to **Kim Lockett** whose telephone number is **(703) 308-7615, after 2/3/04 my new number will be (571) 272-2067**. The examiner can normally be reached on Monday through Friday from 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Bradley can be reached on (571) 272-2800 ext. 33.